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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/587,781

07/28/2006

Franz Fadler

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2117

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PATENT DEPARTMENT
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EXAMINER

ROZANSKI, MICHAEL T

ART UNIT

PAPER NUMBER

3768

MAIL DATE

DELIVERY MODE

08/03/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/587,781	Applicant(s) FADLER ET AL.	
	Examiner MICHAEL T. ROZANSKI	Art Unit 3768	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/12/07, 7/28/06, 4/6/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 16 and 18 are objected to because of the following informalities: In claim 16, line 4, there is an extra period after the comma. In claim 18, line 1, "c-arm" should be "C-arm." Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 11, line 14, the phrase "extending toward said x-ray C-arm" is unclear. From figure 1, it appears the boom is extending toward the isocenter. This phrase is further confusing in that the x-ray C-arm and shockwave carrier can orbit and rotate independently, thereby changing the orientation of the boom relative to other components.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-14 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burkhardt et al (US Pub 2003/0078523) alone or in view of Kaltschmidt et al (US 7,493,155).

Burkhardt et al discloses a base support 17, patient table 14, x-ray C-arm 2 with source 7 and receiver 8, shockwave head 3, carrier device for shockwave head 4, 11 mounted to the base support 17 laterally from and stationary relative to the x-ray C-arm, and a boom having a fixed end 10 attached to element 11 and a free end to which the shockwave source 3 is attached (see Figures 1 and 2a-2c). The boom is movable by the carrier device to arbitrarily position the shockwave head in an orbital plane within an angle range along the carrier rail 11 (see Figures 8a-8c). The carrier device may also be a multiple mounted freely movable holding arm 18 with three joints [0040].

From the Figures, it appears that the carrier rail 11 forms an arc that is not at least 180 degrees. However, it would have been obvious to the skilled artisan to make the carrier rail longer such that it extends at least 180 degrees in order to achieve better treatment positions/angles. Alternatively, Kaltschmidt et al teaches of a shockwave head used with an x-ray system wherein the head is positionable within an angle range 180 degrees above and below the patient. It would have been obvious to substitute the rail configuration of Burkhardt et al, with that of Kaltschmidt et al, in order to permit the shockwave head to be positioned at any necessary treatment positions/angles.

Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burkhardt et al (US Pub 2003/0078523) alone or in view of Kaltschmidt et al (US 7,493,155) and further in view of Rattner (US 5,703,922).

Burkhardt et al disclose in particular where the joints are located and how the device is positioned aside from the treatment and park positions. However, Rattner teaches of a shock wave source positioned via an articulated arm via multiple joints (see face figure). It would have been obvious to the skilled artisan to modify Burkhardt et al, to include an articulated arm as taught by Rattner, in order to permit better treatment positions/angles.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burkhardt et al (US Pub 2003/0078523) alone or in view of Kaltschmidt et al (US 7,493,155) and further in view of Einars et al (US 5,070,861).

Burkhardt et al disclose shockwave head, but not one with a central region permeable to x-rays. However, Einars et al teach of a system with x-ray sighting for aiming a lithotripter wherein part of the shockwave source is provided for x-ray permeable material for aligning focal points (col 1, lines 56-68). It would have been obvious to the skilled artisan to modify Burkhardt et al, to incorporate x-ray permeable material as taught by Einars, in order to help align the focal points of the x-rays and shockwave sources.

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL T. ROZANSKI whose telephone number is (571)272-1648. The examiner can normally be reached on Monday - Friday, 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le can be reached on 571-272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eric F Winakur/
Primary Examiner, Art Unit 3768

MR